THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.16962 of 2006
Dated:23-08-2006

Between:
Kasibatla Sainath Sharma Petitioner

And

The District Collector, Kadapa and two others

Respondents

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.16962 of 2006

ORDER:

1. Heard the counsel on record.

2. The writ petition is coming up for admission. Sri Udarapu Malla Reddy is impleaded as party in W.P.M.P.No. 21984 of 2006.

3. Sri K.Sudershan Reddy, the learned counsel representing the petitioner had taken this court through several allegations made in the affidavit filed in support of the writ petition and also placed before this court Form 29 said to have been duly signed by the Returning Officer declaring that the petitioner- Kasibatla Sainath Sharma was elected to the office of the Sarpanch of the concerned village. The learned counsel also drawn the attention of this court to several representations and also several other allegations made as against the Returning Officer, the Circle Inspector of Police, Proddutur and also the local M.L.A. and son of local M.L.A.,

4. Sri Prabhakar Rao learned counsel representing respondents 1 to 3 had produced the record before this court and would comment on the contentions and also the averments made in both affidavit and the additional affidavit filed in support of the writ petition. These are all factual aspects. The learned counsel also pointed out to Form 27 produced by the writ petitioner before this court which is unsigned and would also submit that Form 29 produced by the writ petitioner said to have been signed by the Returning Officer, the signature is not that of Returning Officer for the reason that the said signature may be compared with the signature in the respective forms both Form No.27 and Form No.29 produced before this court. At

any rate, the learned counsel would submit that in the light of the several of the factual controversies, this court as writ court cannot go into those aspects since these are all evidentiary details which may have to be substantiated before the appropriate election tribunal by way of election petition and hence the same need not be interfered with at this stage.

5. Heard the counsel and also perused the material papers produced by the respective counsel and several of the allegations made in the affidavit and also of the additional affidavit in support of the writ petition.

6. On a careful scrutiny of the allegations, several of the allegations are made as against the local M.L.A.- Veera Siva Reddy and his son Anil Kumar Reddy and further allegations had also been made that they accompanied with certain followers, a mob about more than 300 members and further several factual details had been narrated. Certain allegations are made as against the Returning Officer also who is said to have been holding a cell phone and sending messages to the rival candidates and also the local M.L.A. and the other concerned. It is true that in Paragraphs 2 to 11 of the affidavit filed in support of the writ petition and also paragraphs 2 to 4 in the additional affidavit submitted by the petitioner, several serious allegations had been made. It is needless to say that the concerned parties to be given an opportunity and these factual aspects may have to be decided on the strength of the proper material which may be ultimately placed before the appropriate election tribunal. This court as writ court at this stage cannot interfere especially in the light of the fact that the margin appears to be a slender margin.

7. Be that as it may, inasmuch as these are all factual controversies, liberty is given to the writ petitioner to raise election dispute if the petitioner is so advised.

8. With the above observation, the writ petition is disposed of. No

order as to costs.

23-08-2006

Stp